

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NORTHEASTERN DIVISION

SCOTT JEFFREY CARROLL,

Plaintiff,

v.

SOCIAL SECURITY ADMINISTRATION,

Defendant.

Case No. 2:16-0009

Chief Judge Sharp

Magistrate Judge Newbern

To: The Honorable Kevin Sharp, Chief Judge

REPORT AND RECOMMENDATION

This Social Security appeal awaits the filing of plaintiff Scott Jeffrey Carroll's motion for judgment on the administrative record, as directed by the Court's April 18, 2016 Order. (Doc. No. 15.)

Before entry of a scheduling order in this case, Carroll's attorney was permitted to withdraw as counsel of record. (Doc. No. 8.) Carroll was given thirty days within which to retain substitute counsel or notify the Court that he intended to represent himself. (*Id.*) No counsel appeared on Carroll's behalf and Carroll did not notify the Court of his intention to proceed pro se.

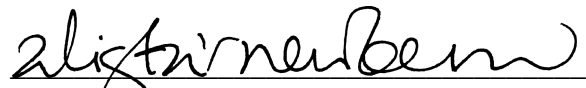
Per the Court's scheduling order, Carroll had until May 18, 2016, to file his motion for judgment on the administrative record. He did not. On August 4, 2016, the Government filed a Motion to Show Cause Why This Complaint Should Not Be Dismissed Pursuant to Rule 41(b), Federal Rules of Civil Procedure (Doc. No. 18.) The Court granted the Government's motion, and Carroll was directed to show cause within fourteen days of receiving the Court's order why

his case should not be dismissed. (Doc. No. 19.) Carroll was explicitly forewarned that failure to respond to the Court's show cause order would likely result in a recommendation that his case be dismissed. (*Id.*)

Service of the Court's Order was achieved by certified mail on September 2, 2016. (Doc. No. 21.) As of the date of this Report, Carroll has not filed his motion for judgment on the administrative record or otherwise shown cause why his case should not be dismissed for failure to prosecute. Federal Rule of Civil Procedure 41(b) contemplates dismissal of an action for the "fail[ure] to prosecute or to comply with these rules or a court order," even in the absence of a motion. *Jourdan v. Jabe*, 951 F.2d 108, 109 (6th Cir. 1992). Carroll has had ample time to secure counsel or to file his motion for judgment pro se. In view of his failure to do so, or to otherwise show cause why his time for filing should be further extended, the undersigned **RECOMMENDS** that this case be **DISMISSED** due to Carroll's failure to prosecute or to comply with the Court's orders.

Any party has fourteen (14) days from receipt of this Report and Recommendation in which to file written objections with the District Court. Any party opposing said objections shall have fourteen (14) days from receipt of any objections filed in which to respond. Failure to file specific objections within fourteen (14) days of receipt of this Report and Recommendation can constitute a waiver of further appeal. *Thomas v. Arn*, 474 U.S. 140 (1985); *Cowherd v. Million*, 380 F.3d 909, 912 (6th Cir. 2004).

ENTERED this 19th day of October, 2016.


ALISTAIR E. NEWBERN
United States Magistrate Judge